HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 1349 2003 (M/S)

Lalit Kumar son of Sri Mahender Singh
Versus.

Vice Chancellor G.B. Pant University and others.

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 2.8.2004.

Initial of Judge

HIGH COURT OF UTTARANCHAL, AT NAINITAL.

Writ Petition No. 1349 of 2003 (MS)

Lalit Kumar ..... Petitioner

Versus

Vice Chancellor, G.B. Pant University & others ..... Respondents

Sri Dharam Veer, Sr. Advocate for the petitioner
Sri Rajendra Dobhal, Advocate for the respondents.

Dated: 2.8.2004

Hon"ble Rajesh Tandon J.

By the present writ petition the petitioner has prayed for a writ of mandamus directing the respondent no. 1 to 3 not to drop the further study of the petitioner for B.V.Sc. & A.H. and permit him to continue further study.

Briefly stated the facts giving rise to the present writ petition are that the petitioner was selected for B.V.Sc. & A.H. course in the year 2001 and after a declaration he was admitted in the university. The petitioner has submitted that it is mentioned in the prospectus of the University that for B.V.Sc. & A.H. Degree normal duration will be 10 semesters and maximum duration will be 16 semesters.

The counsel for the petitioner has submitted that the petitioner has appeared in first professional Annual Examination in 2001-2002 and got compartment in four subjects. He again appeared in the annual examination in the year 2002-03 but he got compartment in two subjects. The petitioner has preferred as writ petition in this High Court which was registered a Writ Petition No. 785 (MS) of 2003. The following order was passed in that writ petition on 11.9.2003:

"The authorities will also consider as to whether there is possibility of improvement of the petitioner. The theory of reformative and improvement is an ancient method. I hope and trust that the University authorities shall follow in the interest of educational carrier of a student.

Without recording any findings on the merits of the controversy, both the parties have agreed tat the grievance of the petitioner shall be adjudicated by deciding his representation dated 1.9.2003 which forms part of Annexure-1 of the rejoinder affidavit. The representation of the petitioners shall be disposed of after hearing the petitioner within a period of one month from the date of filing of certified copy of this order."

In pursuance to the directions given by this Court matter was taken by the Vice Chancellor on 4.11.2003, and the following order was communicated by the Registrar:

"The committee considered his written statement and also heard him in person on 28.1.2003. The Committee also deliberated upon his oral request in detail.

After having considered his request, the Committee felt that the existing regulations in respect of dropping of students in the B.V.Sc. & A.H. Programme on account of poor academic

performance should not be changed and that the provision of Academic Regulation III (46) under which he has appealed for relief does not apply in his case. Accordingly the request of Sri Lalit Kumar, Id. No. 28164 for readmission is not legally tenable."

Rule 44 the as well as Rule 46 of Academic Regulations, are quoted below:

Dropping from the University

44. (a) If any Under-graduate student fails to attain a CGPA of 6.000 out of 10.000 at the end of academic year he shall be dropped from the University for poor academic performance with the right to petition for the readmission. The following categories of the first-degree students shall, however, be finally dropped from the University with no right to petition for readmission.

(I) If any under-graduate student fails to attain a CGPA of 5.000 out of 10.000 at the end of the first academic year. his case a student has been permitted to drop I or II semester of his I academic year, his CGPA at the end of first two semesters of his stay in the University will be counted for this purpose.

(II) If any under-graduate student fails to attain a CGPA of 5.000 in his second year onwards.

Disposal of Petitions for readmission

46. The petitions of dropped students for re-admission shall be examined by a petitions committee appointed by the Vice-chancellor. The committee shall advise the Vice-Chancellor in respect of each petition whether it may be rejected or accepted, subject to such conditions as the committee may deem fit. In case any student has to take make up examination (s) his performance for the purpose of dropping shall be judged on the basis of the result already available without waiting for the make up examinations. The decision of the Vice-chancellor in such cases shall be final. The petitions committee constituted above shall also decide the complicated case of make-up examinations not strictly covered in the regulations, referred to it by the Deans of the Colleges and make necessary recommendations. On the basis of the recommendations of the petitions Committee necessary decision may be taken by the Deans of the College concerned."

The counsel for the respondents has placed reliance on Academic Regulation for dropping from University. It reads as under:

Dropping from the University

(i) If the student fails in the annual /board examination as well as compartment examination for two consecutive academic years/session in theory and or practical in the first professional (first year) of B.V.Sc.& A.H. degree programme, he/she shall be finally dropped from the University on account of poor academic performance

Approved in 310th meeting of academic Council held on 14.5.1999 under item No.99: 310: 6.2.

If a student fails to secure Over All Grade Point Average (OGPA) of 5.00 out of 10.00 at the end of degree programme, he/she shall not be eligible to get B.V. Sc. & A.H. degree.

The counsel for the petition has argued that the petitioner has secured CGPA in the first Academic Sessions which is more than 5.000 although he got compartment in four subjects. In the next semester he got compartment in only two subjects, which indicate the improvement of the petitioner. Rule 46 provides for examination by a petitions Committee appointed by the Vice-Chancellor and on the basis of the recommendations of the Petitions Committee necessary decision may be taken by the Deans of the College. Since it was a case of improvement the Vice Chancellor should have either decided the matter himself or should have referred the matter to the Deans of the College by making necessary recommendations.

In view of the aforesaid facts, the respondents are directed to pass appropriate orders after considering the CGPA and improvement of the petitioner in the examination and if considers proper, the matter may be referred to the Deans of the College.

Subject to the aforesaid observations, the writ petition is disposed of. No order as to costs.

(Rajesh Tandon J.)

2.8.2004
*Dhyani